

**REMARKS**

Claims 1-3 and 7-9 are pending in this application, with Claims 1 and 7 being the independent Claims. Claims 4-6 and 10-12 were elected out following a restriction request. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US 6,836,469 in view of Fang (US 5,481,561).

It is respectfully submitted that the Examiner is incorrect in rejecting Claims 1-3 and 7-9 under 35 U.S.C. §103(a) based on *Wu* in view of *Fang*. *Wu* in view of *Fang* alone or combined neither discloses nor suggests each and every element of amended independent Claims 1 and 7, and thus the present invention is not obvious over the prior art of record.

Reconsideration of the present application is respectfully requested.

Wu discloses a medium access control (MAC) protocol for controlling data communication in a multi-channel communication system (e.g., a wideband code division multiple access (WCDMA) system). The protocol provides a procedure for transmitting, via a plurality of data links and control links, data packets between a first station (e.g., a base station) and one or more second stations (e.g., mobile stations). Wu also discloses an improved multi-channel MAC protocol as applied to a WCDMA system. Wu further discloses a contention phase wherein the mobile stations send short packets to the base station via some M control channels. Each of the short packets contains dummy data or padding bits which are error-protected by an error detection code (e.g., Cyclic Redundancy Code (CRC)).

Fang discloses a network of personal communications terminals communicating in a CDMA mode which includes a reference station for transmitting a pilot tone that is pre-corrected at the reference station and is used at the remaining stations for frequency control, transmit power control and antenna acquisition and tracking.

In the Office Action, the Examiner refutes the arguments presented in the last reply and reasserts the allegation that Wu (US 6,836,469) in view of Fang (US 5,481,561) fully and completely discloses the invention. In reply to the argument that neither Wu nor Fang disclose, teach, or otherwise make obvious transmitting a dedicated physical data channel signal over a dedicated physical data channel in order to maintain the target SIR, the Examiner argues that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. The Examiner alleges that the prior art structure is capable of performing the intended use, and thus it meets the claim.

However, the structure of the present invention, namely “a dedicated physical data channel”, is different from that of the prior art. After reviewing Fang, Applicants are unable to find any section of Fang that teaches or fairly suggests “a dedicated physical data channel.” Fang refers to a pause detector as shown in Fig. 7. (See col. 5, lines 9-13). The present invention is not limited to merely a part of a limitation, the limitation in its entirety must be considered. Therefore, the Examiner is respectfully requested to examine “transmitting a dedicated physical data channel signal created by attaching the CRC (Cycle Redundancy Check) bit stream to the dummy bit stream over a dedicated physical data channel in order to maintain the target SIR (Signal-to-Interference Ratio).”

Claims 2-3 depend from and contain all the elements of Claim 1. Claims 2-3 are distinguishable from Wu in view of Fang in the same manner as Claim 1.

Claims 8-9 depend from and contain all the elements of Claim 7. Claims 8-9 are distinguishable from Wu in view of Fang in the same manner as Claim 7.

The Examiner has failed to show that all of the recitations of Claims 1-3 and 7-9 are taught, disclosed or fairly suggested by either Wu or Fang, or the combination thereof. Accordingly, the Examiner has failed to make out a prima facie case for an obviousness rejection.

Accordingly, all of the claims pending in the Application, namely, Claims 1-3 and 7-9, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the typed name.

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